

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

LILLIAN S. NELSON, M.D.,
RESPONDENT.

FINAL DECISION AND ORDER
94 MED 274

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

Lillian S. Nelson, M.D.
2418 Root River Parkway
West Allis, WI 53227

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Lillian S. Nelson (dob 2/10/24) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license #10960, first granted on 10/25/50. Respondent is a general practitioner and is also licensed in Minnesota.

2. The Respondent did, on and between December 1992 and October 1994, prescribe substantial quantities of narcotic controlled substances including hydrocodone and codeine, for her adult son and his girlfriend-roommate. Respondent has no medical chart for these patients, and her stated diagnosis of continuing asthma, headaches, and knee injury does not justify the length and level of prescribing. Her son has a history of suicide attempts, and prescribing narcotics for such a patient requires substantial justification, not present here.

3. Respondent has substantially retired from the practice of medicine as of May, 1995, and treats only a very limited number of long-time patients.

CONCLUSIONS OF LAW

4. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to §448.02(3), Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

5. The conduct described in paragraph 2, above, violated § Med 10.02(2)(h) and (p), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Lillian S. Nelson, M.D., is REPRIMANDED for her unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the SURRENDER of the DEA registration to prescribe controlled substances of Lillian S. Nelson, M.D., is ACCEPTED by the Board.

IT IS FURTHER ORDERED, that the license to practice medicine and surgery of respondent is further LIMITED in the following respects.

1. Respondent shall not prescribe, nor attempt to prescribe, any controlled substance for any patient, nor shall she hold, obtain, or attempt to obtain, a DEA registration of any kind without permission of the Board.
2. Respondent shall not treat, or attempt to treat, the patients referred to in the Findings of Fact in this matter.
3. Respondent shall not accept new patients.
4. Respondent shall keep a full and accurate chart for all patients, including notations of all medications prescribed, including the reasons therefor.

IT IS FURTHER ORDERED, that respondent shall pay the costs of investigating and prosecuting this matter in the amount of \$1,100, within 30 days of this order.

IT IS FURTHER ORDERED, that pursuant to §448.02(4), Wis. Stats., if the Board determines that there is probable cause to believe that respondent has violated any term of this Final Decision and Order, the Board may order that the license and registration of respondent be summarily suspended pending investigation of the alleged violation.

Dated this 35th day of September, 1996.

WISCONSIN MEDICAL EXAMINING BOARD

by:


a member of the Board

akt

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LILLIAN S. NELSON, M.D.,
RESPONDENT.

STIPULATION
94 MED 274

It is hereby stipulated between the above Respondent and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by agreement and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a statement of the allegations against respondent; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against respondent; the right to call witnesses on respondent's behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of respondent's right to seek legal representation and has been provided the opportunity to seek legal advice before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.

7. The Board Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and view of the case acquired during the investigation.

8. This stipulation is subject to approval by the Division of Enforcement's attorney-supervisor. If approved by the supervisor, the Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

9. Respondent is informed that should the Board adopt this stipulation, the Board's final decision and order is a public record and will be published in the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. This is standard department procedure and in no way specially directed at Respondent.

10. Respondent surrenders her DEA registry number and agrees not to attempt to reregister again without approval of the Board. If she seeks such approval, the Board may condition its approval upon a demonstration of competence and knowledge as it deems appropriate, in its sole discretion. The denial of such approval shall not be deemed a denial of license and does not entitle respondent to a hearing under ch. RL 1. Wis. Adm. Code.

Lillian Nelson MD
Respondent

8-20-96
Date

David J. Cannon
David J. Cannon, Attorney for Respondent

8/21/96
Date

Arthur Ruyton
Prosecuting Attorney
Division of Enforcement

8/22/96
Date

Department of Regulation & Licensing

State of Wisconsin

P O. Box 8935, Madison, WI 53708-8935
(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On September 25, 1996, the Medical Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$1,100.00 Case #: 94 MED 274

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 1,100.00

The costs and/or forfeitures are due: October 25, 1996

NAME: Lillian S. Nelson LICENSE NUMBER: 10960

STREET ADDRESS: 2418 Root River Parkway

CITY: West Allis STATE: WI ZIP CODE: 53227

Check whether the payment is for costs or for a forfeiture or both:

X COSTS _____ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL _____ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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For Receipting Use Only

BEFORE THE STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

LILLIAN S. NELSON, M.D.,
RESPONDENT.

AFFIDAVIT OF SERVICE

Katie Rotenberg, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on September 30, 1996, she served the following upon the respondent and her attorney:

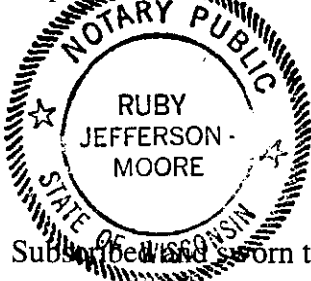
Final Decision and Order dated September 25, 1996, and Guidelines for Payment of Costs and/or Forfeitures

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail with a return receipt requested in an envelope properly addressed to the above-named respondent and her attorney at:

Lillian S. Nelson, M.D.
2418 Root River Parkway
West Allis, WI 53227
Certified P 213 148 347

David J. Cannon, Attorney
100 E. Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202-4108
Certified P 213 148 348

an address which appears in the files and records of the Medical Examining Board as the respondent's last known address.



Katie Rotenberg
Katie Rotenberg
Department of Regulation and Licensing

Subscribed and sworn to before me

this 30th day of September, 1996.

Ruby Jefferson-Moore
Notary Public
Dane County, Wisconsin
My Commission is Permanent

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

September 30, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)